

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

**CHARLES LEMUEL ARBOGAST, JR.,
et al.,
Plaintiffs**

v.

**A.W. CHESTERTON CO. *et al.*,
Defendants**

CIVIL NO. JKB-14-4049

* * * * *

MEMORANDUM

Plaintiffs, who are husband and wife Charles Lemuel Arbogast, Jr., and Barbara Arbogast, sued twenty-seven defendants—of whom twenty-four remain in the case—and alleged they, as manufacturers and/or distributors of various products, caused Charles Arbogast to be exposed to asbestos, which led to his diagnosis of mesothelioma. (Compl., ECF No. 2.) The complaint contains four counts, including Count I – strict liability, Count II – negligence, Count III – aiding and abetting and conspiracy, and Count IV – loss of consortium. Plaintiffs demand compensatory damages in excess of \$75,000.

Various motions are pending that, if granted, will streamline the case considerably. Plaintiffs have stated they do not oppose the motions, or parts thereof, that are subject of this memorandum. (*See* Pls.’ Opp’n to CBS’s Mot. Summ. J. 3 n.1 (ECF No. 493); Pls.’ Opp’n to Crane Co.’s Mot. Summ. J. 3 n.1 (ECF No. 494); Pls.’ Opp’n to Georgia-Pacific’s Mot. Summ. J. 3 n.1 (ECF No. 495); Pls.’ Opp’n to Union Carbide’s Mot. Summ. J. 4 n.1 (ECF No. 496); Pls.’ Opp’n to Foster Wheeler’s Mot. Summ. J. 3 n.1 (ECF No. 498); Pls.’ Opp’n to MCIC’s Mot. Summ. J. 3 n.1 (ECF No. 499); Pls.’ Let. 2-3 (ECF No. 503).) In addition, Plaintiffs have

not offered any evidence of aiding and abetting and conspiracy in opposition to any motion for summary judgment. (*See* Pls.' Opp'n to GE's Mot. Summ. J. (ECF No. 497); Pls.' Opp'n to Eaton's Mot. Summ. J. (ECF No. 501).) The Court infers, then, that Plaintiffs are not pursuing those claims against any Defendant and will grant partial judgment on that basis. If Plaintiffs believe the Court's view as to their aiding and abetting and conspiracy claims is in error, then they may file a motion with supporting evidence asking for a revision of this ruling.

As a result of the various rulings made today, the following Defendants remain in the case: CBS Corporation of Delaware; Crane Company; Eaton Corporation; Foster Wheeler, LLC; Foster Wheeler Energy Corporation; General Electric Company; Georgia-Pacific, LLC; Goodyear Tire & Rubber Company; MCIC, Inc.; Metropolitan Life Insurance Company; Schneider Electric USA, Inc.; Sepco Corporation (but subject to automatic bankruptcy stay); Union Carbide Corporation; and Uniroyal Holding, Inc.. A separate order will enter.

DATED this 5th day of May, 2016.

BY THE COURT:

/s/
James K. Bredar
United States District Judge

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* * * * *

ORDER

In accordance with the foregoing memorandum, IT IS HEREBY ORDERED:

1. The following unopposed motions for summary judgment as to all claims, cross-claims, and third-party claims ARE GRANTED:
 - a. Ingersoll Rand Company (ECF No. 431);
 - b. CertainTeed Corporation (ECF No. 433);
 - c. BorgWarner Morse TEC LLC as Successor-By-Merger to Borg Warner Corporation (ECF No. 435);
 - d. Crown Cork & Seal USA, Inc. (ECF No. 438);
 - e. Wallace & Gale Asbestos Settlement Trust (ECF No. 439);
 - f. Honeywell International Inc. (ECF No. 441); and
 - g. A.W. Chesterton Company (ECF Nos. 457 & 458).
2. JUDGMENT IS ENTERED for these Defendants as to all claims, cross-claims, and third-party claims, and the Clerk SHALL TERMINATE them as parties in the case:
 - a. Ingersoll Rand Company;

- b. CertainTeed Corporation;
 - c. BorgWarner Morse TEC LLC as Successor-By-Merger to Borg Warner Corporation;
 - d. Crown Cork & Seal USA, Inc.;
 - e. Wallace & Gale Asbestos Settlement Trust;
 - f. Honeywell International Inc.; and
 - g. A.W. Chesterton Company.
3. The following motions for partial summary judgment ARE MOOT:
- a. Ingersoll Rand Company (ECF No. 443);
 - b. CertainTeed Corporation (ECF No. 445);
 - c. Honeywell International Inc. (ECF No. 447);
 - d. BorgWarner Morse TEC LLC as Successor-By-Merger to Borg Warner Corporation (ECF No. 468); and
 - e. A.W. Chesterton Company (ECF No. 469).
4. Previously dismissed Defendant Greene, Tweed & Company's motion for summary judgment (ECF No. 450) IS MOOT.
5. MCIC, Inc.'s motion for partial summary judgment on the issue of punitive damages (ECF No. 453) is unopposed and IS GRANTED.
6. The motions for partial summary judgment on Plaintiffs' liability theories, pled or implied, of aiding and abetting, conspiracy, fraud, and breach of warranty and any claim for punitive damages filed by the following Defendants are unopposed and ARE GRANTED:
- a. Georgia-Pacific LLC (ECF No. 446);

- b. Foster Wheeler LLC and Foster Wheeler Energy Corporation (ECF No. 449);
 - c. MCIC, Inc. (ECF No. 455);
 - d. Schneider Electric USA, Inc. (f/k/a Square D Company) (ECF No. 459);
 - e. Crane Company (ECF No. 460); and
 - f. Union Carbide Corporation (ECF No. 463).
7. CBS Corporation, a Delaware corporation, f/k/a Viacom Inc., successor by merger to CBS Corporation, a Pennsylvania corporation, f/k/a Westinghouse Electric Corporation's motion for summary judgment (ECF No. 442) IS GRANTED IN PART as to all claims other than strict liability, negligence, and loss of consortium.
8. Eaton Corporation f/k/a Eaton Electrical, Inc., as successor-in-interest to Cutler Hammer, Inc.'s motion for summary judgment (ECF No. 444) IS GRANTED IN PART as to all claims other than strict liability, negligence, and loss of consortium.
9. General Electric Company's motion for summary judgment (ECF No. 465) IS GRANTED IN PART as to all claims other than strict liability, negligence, and loss of consortium.
10. Plaintiffs' claims other than strict liability, negligence, and loss of consortium ARE DISMISSED against all remaining Defendants.
11. The Clerk SHALL TERMINATE Old Orchard Industrial Corporation, whose dismissal from the case was accomplished by operation of law pursuant to Federal Rule of Civil Procedure 41 (ECF No. 26).
12. All proceedings as to Sepco Corporation only are subject to an automatic stay due to that Defendant's filing of a petition pursuant to Chapter 11 of Title 11 of the United States Bankruptcy Code (ECF No. 427).

13. The Clerk SHALL AMEND the docket to reflect Goodrich Corporation's status as a
Movant only, not as a Defendant.

DATED this 5th day of May, 2016.

BY THE COURT:

/s/
James K. Bredar
United States District Judge